UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,692	07/02/2003	Vipin Malik	1787-13700 (M&C020002)	4403

			EXAMINER
23505	7590	02/21/2006	TAN, VIBOL

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ART UNIT	PAPER NUMBER
2819	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 February 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-9* is/are allowed.

6)☒ Claim(s) *10,17,18 and 23* is/are rejected.

7)☒ Claim(s) *11-16 and 19-22* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 10, 17, 18 and 23 are rejected under 35 U.S.C. 102(e) as being

anticipated by Garrod et al. (US 2003/0174070).

In claim 10, Garrod et al. teaches all claimed features in Figs. 1 and 2, a method

of operating a remote device (34) in a hazardous environment (storage tank), the

method comprising: providing a path for a communication signal (40) from an energy

barrier (30) to one or more configuration terminals (serial link read as terminal) of a

programmable logic device (36 read as programmable logic device) in the remote

device; and automatically opening the path (programming complete) in the remote

device after the programmable logic device is configured (programmed).

In claim 17, Garrod et al. further teaches the method of claim 10, further

comprising: measuring characteristics of a fluid flow (...the tank is full, empty, or

somewhere in between; [0029]); and communicating measurement data across a

boundary of a hazardous environment (measurement data across the tank).

In claim 18, Garrod et al. teaches all claimed features in Figs. 1 and 2, a system for performing measurements in a hazardous environment (storage tank), the system comprising: a main device (30) isolated from the hazardous environment; a remote device (34) located within the hazardous environment; and a communications link (40) that transports at least one communication signal (program code) between the main device and the remote device, wherein the main device (30) uses the communication signal (program code) to configure a programmable logic device (36) in the remote device.

In claim 23, Garrod et al. further teaches the system of claim 18, wherein the remote device (34) is configured to measure one or more characteristics of a fluid flow (...the tank is full, empty, or somewhere in between; [0029]).

3.   Claims 11-16 and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4.   Claims 1-9 appear to comprise allowable subject matter.

Response to Arguments

5.   Applicant's arguments with respect to claims 10 and 18 have been considered but are moot in view of the new ground(s) of rejection.

The newly applied reference of Garrod et al. anticipates all claimed features of claims 10, 17, 18, and 23, as set forth above.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Vibol Tan whose telephone number is (571) 272-1811.

The examiner can normally be reached on Monday-Friday (7:00 AM-4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rexford Barnie can be reached on (571) 272-7492. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

VIBOL TAN
PRIMARY EXAMINER